

ORDINANCE NO. 49-101

OF THE
CITY OF WICHITA, KANSAS

AUTHORIZING THE ISSUANCE OF
NOT TO EXCEED

\$200,000,000
HOSPITAL FACILITIES REFUNDING AND IMPROVEMENT REVENUE BONDS
SERIES IV, 2011
(VIA CHRISTI HEALTH, INC.)

(Published in *The Wichita Eagle*, September 23, 2011)

ORDINANCE NO. 49-101

AN ORDINANCE AUTHORIZING THE CITY OF WICHITA, KANSAS TO ISSUE ITS HOSPITAL FACILITIES REFUNDING AND IMPROVEMENT REVENUE BONDS (VIA CHRISTI HEALTH, INC.) IN THE TOTAL AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$200,000,000 FOR THE PURPOSES OF REFUNDING CERTAIN OUTSTANDING 2001 HOSPITAL FACILITIES REVENUE BONDS AND PURCHASING, ACQUIRING, CONSTRUCTING AND FURNISHING HOSPITAL IMPROVEMENTS TO WICHITA AND PITTSBURG, KANSAS HOSPITAL FACILITIES; PRESCRIBING THE FORM AND AUTHORIZING EXECUTION OF A BOND INDENTURE BY AND BETWEEN THE CITY AND THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., AS BOND TRUSTEE; PRESCRIBING THE FORM AND AUTHORIZING THE EXECUTION OF A FOURTH SUPPLEMENTAL RESTATED AND AMENDED LEASE BY AND BETWEEN THE CITY AND VIA CHRISTI HOSPITALS WICHITA, INC.; PRESCRIBING THE FORM AND AUTHORIZING THE EXECUTION OF A SIXTH SUPPLEMENTAL HOSPITAL SUBLEASE AND OBLIGATION NO. 6A BY AND BETWEEN THE CITY AND VIA CHRISTI HOSPITALS WICHITA, INC.; PRESCRIBING THE FORM AND AUTHORIZING THE EXECUTION OF A SECOND SUPPLEMENTAL LEASE BY AND BETWEEN THE CITY AND VIA CHRISTI HOSPITAL PITTSBURG, INC.; PRESCRIBING THE FORM AND AUTHORIZING THE EXECUTION OF A THIRD SUPPLEMENTAL SUBLEASE AND OBLIGATION NO. 6B BY AND BETWEEN THE CITY AND VIA CHRISTI HOSPITAL PITTSBURG, INC.; APPROVING THE FORM OF GUARANTY AGREEMENT AND OBLIGATION NO. 6AA BY AND BETWEEN VIA CHRISTI HOSPITALS WICHITA, INC. AND THE BOND TRUSTEE; APPROVING THE FORM OF GUARANTY AGREEMENT AND OBLIGATION NO. 6BB BY AND BETWEEN VIA CHRISTI HOSPITAL PITTSBURG, INC. AND THE BOND TRUSTEE; PRESCRIBING THE FORM AND AUTHORIZING EXECUTION OF A TAX COMPLIANCE AGREEMENT BY AND BETWEEN THE CITY, THE BOND TRUSTEE, VIA CHRISTI HEALTH, INC., VIA CHRISTI HOSPITALS WICHITA, INC., AND VIA CHRISTI HOSPITAL PITTSBURG, INC.; PRESCRIBING THE FORM AND AUTHORIZING THE EXECUTION OF BOND PURCHASE AGREEMENTS BY AND BETWEEN THE CITY, VIA CHRISTI HEALTH, INC. AND MORGAN STANLEY & CO. LLC, AS PURCHASER OF CERTAIN BONDS; PRESCRIBING THE FORM AND AUTHORIZING THE EXECUTION OF A BOND PLACEMENT AGREEMENT BY AND BETWEEN THE CITY, VIA CHRISTI HEALTH, INC. AND JPMORGAN CHASE BANK, N.A., AS ORIGINAL PURCHASER OF CERTAIN BONDS.

WHEREAS, the City of Wichita, Kansas (the “Issuer”) is authorized by K.S.A. 12-1740 to 12-1749d, inclusive, and K.S.A. 10-116a, all as amended (the “Act”), to acquire, construct, improve and equip certain facilities (as defined in the Act) for hospital purposes, and to enter into leases and lease-purchase agreements with any person, firm or corporation for said facilities, and to issue revenue bonds for the purpose of paying the cost of any such facilities, as well as to refund any such revenue bonds previously issued; and

WHEREAS, pursuant to the Act, the Issuer has previously issued certain (i) City of Wichita, Kansas, Hospital Facilities Revenue Bonds, Series III-A, 2001 (Via Christi Health System, Inc.) (the “Series III-A, 2001 Bonds”) and (ii) City of Wichita, Kansas, Hospital Facilities Revenue Bonds, Series III-B, 2001 (Via Christi Health, Inc.) (the “Series III-B, 2001 Bonds”); and

WHEREAS, the Issuer has previously acquired leasehold interests in certain hospital facilities constituting the Via Christi Hospitals Wichita, Inc. (formerly Via Christi Regional Medical Center, Inc.) campuses located at 929 N. St. Francis and 3600 E. Harry, Wichita, Kansas, (the “Wichita Hospital Facilities”), and certain hospital facilities of Via Christi Hospital Pittsburg, Inc. (formerly Mt. Carmel Regional Medical Center, Inc.) located at 1 Mt. Carmel Way, Pittsburg, Kansas (the “Mt. Carmel Facility”); and

WHEREAS, the Issuer and Via Christi Health, Inc. (“Via Christi”) now deem it necessary and desirable that the Issuer issue its Hospital Facilities Refunding and Improvement Revenue Bonds (collectively, the “2011 Bonds”) for the purpose of (i) refunding the outstanding Series III-A, 2001 Bonds and Series III-B, 2001 Bonds (collectively the “Refunded Bonds”), (ii) providing a portion of the funds necessary to purchase, acquire, construct, furnish and equip certain hospital improvements to the Wichita Hospital Facilities and Mt. Carmel Facility and all necessary appurtenances thereto and improvements ancillary thereto (the “2011 Project”), and (iii) paying a portion of the Costs of Issuance to be incurred in connection with the issuance of the 2011 Bonds;

WHEREAS, payment of the principal of, redemption premium, if any, and interest on the 2011 Bonds will be further secured pursuant to the terms of a Master Trust Indenture by and between Via Christi, Via Christi Hospitals Wichita, Inc., Via Christi Hospital Pittsburg, Inc., Via Christi Rehabilitation Hospital, Inc., and Via Christi Hospital Wichita St. Teresa, Inc., all as members of the Obligated Group, and The Bank of New York Mellon Trust Company, N.A., as Master Trustee (all as supplemented and amended, the “Master Trust Indenture”); and

WHEREAS, the Issuer further finds and determines that it is necessary and desirable in connection with the issuance of said 2011 Bonds to execute and deliver a Bond Indenture, dated as of September 15, 2011 (the “Bond Indenture”) with The Bank of New York Mellon Trust Company, N.A., as Bond Trustee (the “Bond Trustee”); to execute and deliver a Fourth Supplemental Restated and Amended Lease, dated as of September 15, 2011, with Via Christi Hospitals Wichita, Inc., as lessor, to execute and deliver a Sixth Supplemental Sublease and Obligation No. 6A, dated as of September 15, 2011, with Via Christi Hospitals Wichita, Inc., as Subtenant; to execute and deliver a Second Supplemental Lease, dated as of September 15, 2011, with Via Christi Hospital Pittsburg, Inc., as lessor; to execute and deliver a Third Supplemental Sublease and Obligation No. 6B with Via Christi Hospital Pittsburg, Inc., as Subtenant; to execute and deliver a Tax Compliance Agreement,

dated as of September 15, 2011, with Via Christi Health, Inc. and the Bond Trustee; to execute and deliver the two necessary Bond Purchase Agreements with Morgan Stanley & Co. LLC (the “Underwriter”) and Via Christi (such agreements collectively herein referred to as the “Bond Purchase Agreements”); and to execute and deliver the necessary Bond Placement Agreement with JPMorgan Chase Bank, N.A. (the “Original Purchaser”) and Via Christi (the “Bond Placement Agreement”).

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

Section 1. Definition of Terms. All terms and phrases not otherwise defined herein shall have the respective meanings set forth in the Bond Indenture, Hospital Lease, Hospital Sublease, Mt. Carmel Hospital Lease, and Mt. Carmel Hospital Sublease, as hereinafter authorized and defined.

Section 2. Authority to Refund the Refunded Bonds. Pursuant to the Act, the Issuer is hereby authorized to provide for the refunding, early redemption and retirement of the Refunded Bonds in accordance with the terms and provisions of the Bond Indenture, as hereinafter authorized.

Section 3. Authority to Cause the 2011 Project to be Acquired, Constructed and Equipped. Pursuant to the Act, the governing body of the Issuer hereby declares that the 2011 Project, if in being, would promote the welfare of the City of Wichita, Kansas and the Issuer is hereby authorized to cause the 2011 Project to be purchased, acquired, constructed, furnished and equipped all in the manner and as more particularly described in the Bond Indenture, the Hospital Sublease and the Mt. Carmel Hospital Sublease, as hereinafter authorized and defined.

Section 4. Authorization of and Security for the Bonds. There are hereby authorized and directed to be issued certain Hospital Facilities Refunding and Improvement Revenue Bonds in multiple series aggregating the total principal amount of not to exceed \$200,000,000 (the “2011 Bonds”), as provided in the Bond Indenture dated as of September 15, 2011 (the “Bond Indenture”), by and between the Issuer and The Bank of New York Mellon Trust Company, N.A. (the “Bond Trustee”), pursuant to the Act, for the purpose of (a) refunding the Refunded Bonds, (b) providing the funds necessary to purchase, acquire, construct, furnish and equip the 2011 Project, and (c) paying the Costs of Issuance to be incurred in connection with the issuance of the 2011 Bonds. The 2011 Bonds shall bear such series designations, shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity, and shall be issued in the manner as prescribed and subject to the provisions, covenants and agreements as shall be set forth in the Bond Indenture hereinafter authorized. The maturity dates and respective interest rates on the Series A, 2011 Bonds shall be as established by the Bond Purchase Agreement therefor and the true interest cost on such 2011 Bonds shall not exceed 6.5%. The 2011 Bonds shall be special limited obligations of the Issuer payable solely from the revenues derived by the Issuer pursuant to the Hospital Sublease, Mt. Carmel Hospital Sublease or otherwise in connection with the Wichita Hospital Facilities or the Mt. Carmel Facility. The 2011 Bonds shall not be general obligations of or constitute a pledge of the faith and credit of the Issuer within the meaning of any constitutional or statutory provision and shall not be payable in any manner from taxation.

Section 5. Authorization of Bond Indenture. The Issuer is hereby authorized to enter into and deliver the Bond Indenture, under which the Issuer shall pledge and assign to the Bond Trustee, for the benefit of the holders of the 2011 Bonds, the Trust Estate created thereby, all upon the terms and conditions set forth in said Bond Indenture.

Section 6. Lease of Wichita Hospital Facilities. The Issuer shall lease the Wichita Hospital Facilities from Via Christi Hospitals Wichita, Inc. pursuant to and in accordance with the provisions of a Fourth Supplemental Restated and Amended Lease, dated as of September 15, 2011 (the “Fourth Supplemental Hospital Lease”), by and between the Issuer and Via Christi Hospitals Wichita, Inc., which Fourth Supplemental Hospital Lease supplements and amends a certain Restated and Amended Lease dated as of February 1, 1992, as previously supplemented and amended (collectively, the “Hospital Lease”).

Section 7. Sublease of the Wichita Hospital Facilities. The Issuer shall sublease the Wichita Hospital Facilities to Via Christi Hospitals Wichita, Inc. pursuant to and in accordance with the provisions of a Sixth Supplemental Sublease and Obligation No. 6A, dated as of September 15, 2011 (the “Sixth Supplemental Hospital Sublease”), by and between Via Christi Hospitals Wichita, Inc. and the Issuer, which Sixth Supplemental Hospital Sublease supplements and amends a certain Sublease and Obligation No. 1 dated as of February 1, 1992, as previously supplemented and amended (collectively, the “Hospital Sublease”).

Section 8. Lease of Mt. Carmel Facility. The Issuer shall lease the Mt. Carmel Facility from Via Christi Hospital Pittsburgh, Inc. pursuant to and in accordance with the provisions of a Second Supplemental Lease, dated as of September 15, 2011 (“Second Supplemental Mt. Carmel Hospital Lease”), by and between the Issuer and Via Christi Hospital Pittsburgh, Inc, which Second Supplemental Mt. Carmel Hospital Lease supplements and amends a Lease dated October 1, 1999, as previously supplemented and amended (the “Mt. Carmel Hospital Lease”).

Section 9. Sublease of the Mt. Carmel Facility. The Issuer shall sublease the Mt. Carmel Facility to Via Christi Hospital Pittsburgh, Inc. pursuant to and in accordance with the provisions of a Third Supplemental Sublease and Obligation No. 6B, dated as of September 15, 2011 (“Third Supplemental Mt. Carmel Hospital Sublease”), by and between Via Christi Hospital Pittsburgh, Inc. and the Issuer, which Second Supplemental Mt. Carmel Hospital Sublease supplements and amends a certain Sublease and Obligation No. 2C, as previously supplemented and amended (collectively, the “Mt. Carmel Hospital Sublease”).

Section 10. Approval of the Wichita Guaranty Agreement. The form of the Guaranty Agreement and Obligation No. 6AA, dated as of September 15, 2011, pursuant to which Via Christi Hospitals Wichita, Inc. guarantees to the Bond Trustee, for the benefit of the owners of the 2011 Bonds, the full and prompt payment of the principal of, redemption premium, if any, and interest of the 2011 Bonds, is hereby approved.

Section 11. Approval of the Pittsburgh Guaranty Agreement. The form of the Guaranty Agreement and Obligation No. 6BB, dated as of September 15, 2011, pursuant to which Via Christi

Hospital Pittsburgh, Inc. guarantees to the Bond Trustee, for the benefit of the owners of the 2011 Bonds, the full and prompt payment of the principal of, redemption premium, if any, and interest of the 2011 Bonds, is hereby approved.

Section 12. Authorization of Bond Purchase Agreements. The Series A, 2011 Bonds and the Series C, 2011 Bonds shall be sold and delivered to the Underwriter upon the terms and subject to the provisions of, and the Issuer is hereby authorized to enter into, two separate Bond Purchase Agreements, each by and between the Issuer, Via Christi Health, Inc. and the Underwriter.

Section 13. Authorization of Bond Placement Agreement. The Series B, 2011 Bonds shall be sold and delivered to the Original Purchaser upon the terms and subject to the provisions of, and the Issuer is hereby authorized to enter into, the Bond Placement Agreement, by and between the Issuer, Via Christi Health, Inc. and the Original Purchaser.

Section 14. Authorization of Tax Compliance Agreement. The Issuer is hereby authorized to enter into a Tax Compliance Agreement, dated as of September 15, 2011 (the "Tax Compliance Agreement"), by and between the Issuer, Via Christi Health, Inc., Via Christi Hospitals Wichita, Inc., Via Christi Hospital Pittsburgh, Inc. and the Bond Trustee.

Section 15. Execution of Bonds and Agreements. The Mayor or Vice Mayor of the City of Wichita, Kansas is hereby authorized and directed to execute the 2011 Bonds and deliver same to the Bond Trustee for authentication for and on behalf of and as the act and deed of the Issuer in the manner provided in the Bond Indenture. The Mayor or Vice Mayor is hereby further authorized and directed to execute and deliver the Bond Indenture, the Fourth Supplemental Hospital Lease, the Sixth Supplemental Hospital Sublease, the Second Supplemental Lease, the Third Supplemental Mt. Carmel Hospital Sublease, the Tax Compliance Agreement, the Bond Purchase Agreements, and the Bond Placement Agreement for and on behalf of and as the act and deed of the Issuer in substantially the form presented today with such minor corrections or amendments thereto as the Mayor or Vice Mayor shall approve, which approval shall be evidenced by his or her execution thereof, and such other documents, certificates and instruments as may be necessary or desirable to carry out and give effect to the purposes and intent of this Ordinance. The City Clerk or any Deputy City Clerk of the Issuer are hereby authorized and directed to attest the execution of the Bonds, the Bond Indenture, the Fourth Supplemental Hospital Lease, the Sixth Supplemental Hospital Sublease, the Second Supplemental Lease, the Third Supplemental Mt. Carmel Hospital Sublease, the Tax Compliance Agreement, the Bond Purchase Agreements, and the Bond Placement Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out and give effect to the intent of this Ordinance.

Section 16. Further Authority. The Issuer shall, and the officers, agents and employees of the Issuer are hereby authorized and directed to, take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this Ordinance and to carry out, comply with and perform the duties of the Issuer with respect to the 2011 Bonds, Bond Indenture, the Fourth Supplemental Hospital Lease, the Sixth Supplemental Hospital Sublease, the Second Supplemental Lease, the Third Supplemental Mt. Carmel Hospital Sublease, the Tax Compliance Agreement, the Bond Purchase Agreements, and the

Bond Placement Agreement, all as necessary to carry out and give effect to the transactions contemplated hereby and thereby.

Section 17. Effective Date. This Ordinance shall take effect and be in full force from and after its adoption by the governing body and publication once in the official newspaper of the Issuer.

[Remainder of Page Intentionally Left Blank]

PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas this 20th day of September, 2011.

CITY OF WICHITA, KANSAS

[seal]

By _____
Carl Brewer, Mayor

ATTEST:

By _____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By _____
Gary E. Rebenstorf, City Attorney